

A/Reissue

REISSUE PATENT APPLICATION TRANSMITTAL

Docket No. : 35871/MAK/M479
Inventor(s) : Joel Quaid
Original Patent No. : 5,674,285
Original Patent Issue Date : October 7, 1997
(Month/Day/Year)

Title : MAMMARY IMPLANT HAVING SHELL WITH UNITARY
ROUGH-TEXTURED OUTER LAYER

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ADDRESS TO: Assistant Commissioner for Patents
Box Patent Application
Washington, D.C. 20231

Date: October 6, 1999

APPLICATION FOR REISSUE OF UTILITY PATENT

1. Application Elements

- ☒ Fee Transmittal Form (Submit an original and a duplicate for fee processing)
☒ Specification and Claims
☒ Reissue Declaration (37 CFR 1.175)
☒ Drawing(s) (proposed amendments, if appropriate)

2. Original U.S. Patent

- ☒ Offer to Surrender Original Patent (37 CFR 1.178)
☐ Ribboned Original Patent Grant
☐ Affidavit/Declaration of Loss
☒ Title Report
☐ Enclosed
☒ Request and fee (37 CFR § 1.19(b)(4))

3. Original U.S. Patent currently assigned?

- ☒ Yes ☐ No
(If Yes, check applicable box(es))
☒ Written Consent of all Assignees
☒ 37 CFR 3.73(b) Statement

4. Accompanying Application Parts

- ☒ Power of Attorney
☒ Transfer drawings from Patent File
☐ Foreign Priority Claim (35 USC 119)(if applicable)
☐ English Translation of Reissue Oath/Declaration (if applicable)
☒ Information Disclosure Statement (IDS)/PTO-1449
☒ Copies of IDS citations
☐ Small Entity Statement(s)
☐ Statement filed in prior application, status still proper and desired
☒ Return Receipt Postcard (MPEP 503) (Should be specifically itemized)
☐ Other

REISSUE PATENT APPLICATION TRANSMITTAL

Docket No.: 35871/MAK/M479

5. CORRESPONDENCE ADDRESS

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Respectfully submitted,

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**FEE TRANSMITTAL
REISSUE PATENT APPLICATION**

DATE: October 6, 1999

Docket No.	:	35871/MAK/M479
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FEE CALCULATION

Applicant Status: Applicant is a **large** entity.

CLAIMS AS FILED						
		NUMBER FILED	NUMBER IN ORIGINAL PATENT	NUMBER . EXTRA	RATE	BASIC FEE
A	TOTAL CLAIMS	25	7	5	5 x \$9.00	\$45
B	INDEPENDENT CLAIMS	9	4	6	6 x \$39.00	\$234
C	SUBTOTAL <div>SMALL ENTITY FEE = A + B LARGE ENTITY FEE = 2 X (A + B)</div>					\$558
D	BASIC FEE* <div>SMALL ENTITY FEE = \$380.00 LARGE ENTITY FEE = \$760.00</div>					\$760
E	MULTIPLE-DEPENDENT CLAIMS FEE <div>SMALL ENTITY FEE = \$130.00 LARGE ENTITY FEE = \$260.00</div>					
F	TOTAL FILING FEE (ADD LINES C, D, AND E)					\$1,318

METHOD OF PAYMENT

- ☒ Payment Enclosed: Check for \$1,318
- ☒ The Commissioner is hereby authorized to charge any fees under 37 CFR 1.16 and 1.17 which may be required during the **entire pendency** of the application to Deposit Account No. 03-1728. Please show our docket number with any charge or credit to our Deposit Account. **A copy of this letter is enclosed.**

Respectfully submitted,

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[54] **MAMMARY IMPLANT HAVING SHELL
WITH UNITARY ROUGH-TEXTURED
OUTER LAYER**

[75] Inventor: **Joel Quaid**, Santa Barbara, Calif.

[73] Assignee: **Medical Products Development, Inc.**,
Santa Barbara, Calif.

[*] Notice: The term of this patent shall not extend
beyond the expiration date of Pat. No.
5,007,929.

[21] Appl. No.: **570,802**

[22] Filed: **Dec. 12, 1995**

Related U.S. Application Data

[63] Continuation of Ser. No. 993,463, Dec. 15, 1992, abandoned, which is a continuation of Ser. No. 634,430, Dec. 27, 1990, abandoned, which is a continuation of Ser. No. 559,973, Jul. 27, 1990, Pat. No. 5,007,929, which is a continuation of Ser. No. 361,786, May 30, 1989, abandoned, which is a continuation of Ser. No. 927,272, Nov. 4, 1986, abandoned.

[51] Int. Cl.⁶ **A61F 2/12**

[52] U.S. Cl. **623/8; 623/11**

[58] Field of Search **623/1, 11, 12,
623/66, 7, 8**

[56] **References Cited**

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Primary Examiner—David Isabella

Attorney, Agent, or Firm—Christie, Parker & Hale, LLP

[57]

ABSTRACT

A medical implant with an external surface layer of silicone elastomer and having an open-cell structure is made by applying solid particles to the external surface layer of the implant before it is cured, curing the external surface layer with the solid particles embedded therein and then dissolving the solid particles with a solvent that does not dissolve the silicone elastomer. An implant having such an external surface layer is expected to help prevent capsular contraction, to help prevent scar formation, and to help in anchoring the implant within the body.

7 Claims, 4 Drawing Sheets

**MAMMARY IMPLANT HAVING SHELL
WITH UNITARY ROUGH-TEXTURED
OUTER LAYER**

**CROSS-REFERENCE TO RELATED
APPLICATION**

This is a continuation of application Ser. No. 07/993,463, filed Dec. 15, 1992, now abandoned, which is a continuation of Ser. No. 07/634,430, filed Dec. 27, 1990, now abandoned, which is a continuation of Ser. No. 07/559,973, filed Jul. 27, 1990, now U.S. Pat. No. 5,007,929, which is a continuation of Ser. No. 07/361,786, filed May 30, 1989, now abandoned, which is a continuation of Ser. No. 06/927,272, filed Nov. 4, 1986, now abandoned.

FIELD OF THE INVENTION

The present invention is directed to medical devices suitable for implantation and a method for making the devices. More particularly it is directed to silicone-elastomer prostheses having an open-cell texture at the outer surface and a method for making such a prostheses using soluble solid particles.

BACKGROUND OF THE INVENTION

To be suitable for implantation within the human body, a prosthesis should be made of a material that is not physically or chemically degraded or altered by contact with body fluids, that is not toxic or allergenic to human tissue and that will not excite an inflammatory or foreign body reaction. Over the years, silicone elastomers have been found to be the materials best suited for implantation within the human body, because they come the closest to realizing the above-stated requirements. For this reason, silicone elastomers have been widely used for coating cardiac pacemakers, for making implanted catheters (Irving, Hall & Rickham, *Tissue Reaction to Pure and Impregnated Silastic*, Journal of Pediatric Surgery, Vol. 6, No. 6 at 724 (December 1971)), and for making mammary prostheses. The use of silicone elastomers in the manufacture of mammary prostheses has been especially extensive.

However, despite the relative inertness of silicone elastomers, they may still provoke an inflammatory or foreign body reaction in some patients to varying degrees. When a foreign substance enters human tissues, the immediate and natural reaction of the tissues surrounding the foreign substance is to render it harmless to the rest of the body. Small foreign bodies can be disposed of by phagocytosis, but large and inert foreign bodies are encapsulated in a sheath of fibrous tissue to isolate them from surrounding tissues. Encapsulation is a defensive mechanism that occurs through a process similar to the formation of scar tissue in the healing of a wound or surgical incision. A fibrous tissue capsule will form around and completely enclose an implanted prosthesis in an intimate fashion, conforming to its respective shapes and curvatures.

Capsule formation is not a problem for the patient unless the capsule begins to contract. With an implanted mammary prosthesis, the contracture of the capsule around the prosthesis causes it to be compressed tightly and feel very hard and rigid. Ultimately, the contracted capsule assumes a nearly spherical shape. Capsular contracture causes discomfort and embarrassment to the patients who experience it and is a serious condition both from medical and aesthetic viewpoints. One way to remedy capsular contracture is to surgically remove the contracted capsule and implant and

then insert either the same or another implant, a procedure called surgical capsulotomy or capsulectomy. Alternatively, some doctors use closed capsulotomy, a method wherein force is applied to break the capsule in situ. Of course, capsular contracture can still recur.

The problem of capsular contracture is very complex and the reasons why it occurs are not yet fully understood. Nonetheless, several different approaches to avoiding capsular contraction have been investigated. One of the most popular approaches followed today involves the use of steroids. Steroids are known to possess anti-inflammatory and anti fibrinogenic properties and been observed to cause a decrease in the relative hardness of breasts implanted with mammary prostheses. However, the use of steroids can result in complications such as tissue atrophy and discoloration of the skin. Accordingly a great deal of controversy surrounds the use of steroids and their relative utility in preventing capsular contracture. Other drugs and techniques have also been suggested, but their utility has not yet been established.

Other approaches to the problem of capsular contracture have focused on the design of the implant. Examples of mammary prostheses designed to prevent or alleviate the effects of capsular contracture are disclosed in U.S. Pat. Nos. 3,189,921; 3,366,975; 3,559,214; 3,600,718; 3,934,274; 4,095,295; 4,298,997; 4,298,998; and 4,428,082. Of these, those receiving the greatest commercial acceptance are made of a flexible, thin-walled container or sac composed of a material impervious to the ingrowth of fibrous tissue, such as a silicone elastomer, to the external surface of which a thin layer of a porous or open-celled material has been adheringly applied (U.S. Pat. Nos. 3,366,975 or 3,559,214). The interior of the sac is filled with an inert material approximating the resiliency of normal mammary tissue, such as a saline solution or a silicone gel.

The porous or open-celled layer is normally composed of a polyether, polyester or polyurethane foam material. Thin layers of this type of material had been applied to the back sides of mammary prostheses so that fibrous-tissue could grow into the material and thereby anchor a prosthesis securely to the chest wall (U.S. Pat. No. 3,293,663). However, case studies conducted on mammary prostheses almost completely covered with a thin foam layer indicated that the incidence of capsular contracture was reduced by the use of such prostheses (Pennisi, *Polyurethane-Covered Silicone Gel Mammary prosthesis for Successful Breast Reconstruction*, Aesthetic Plastic Surgery, Vol. 9 at 73 (1985); Ashfey, *Further Studies on the Natural-Y Breast Prosthesis*, Plastic and Reconstructive Surgery, Vol. 45, No. 5 at 421 (May 1970)). Although the cause for the reduced incidence is not fully understood, it is believed that the growth of the fibrous tissue into the open-cell layer from many directions prevents the fibrous tissue from contracting in a concerted manner. In other words, the contractions occur in many directions and tend to neutralize each other (Pennisi, supra, at 73).

However, possible problems exist with the use of polyether, polyester or polyurethane foam materials in implants. These materials apparently degrade in the body over a period of time (Brown, Lowry and Smith, *The Kinetics of Hydrolytic Aging of Polyester Urethane Elastomers*, National Bureau of Standards (July 1979); Sherman and Lyons, *The Biological Fate of Implanted Rigid Polyurethane Foam*, Journal of Surgical Research, Vol. 9, No. 3 at 167 (March 1969)). Therefore, the effectiveness of these materials for preventing capsular contracture may disappear as they degrade. When capsular contracture does

occur and the doctor chooses to surgically remove the implant, it is difficult to ensure that all of the degraded material has been removed. These materials have also been suspected of creating problems with infection and of being carcinogenic.

To avoid the potential problems with existing foam materials and still take advantage of the reduced incidence of capsular contracture attendant with the use of prostheses having a porous or open-celled outer layer, ways have been sought to make a layer of silicone elastomer having an open-cell texture. In U.S. Pat. No. 3,852,832, a mammary prosthesis is disclosed having a fixation means attached to its back side with perforations passing therethrough and ribs projecting therefrom. This fixation means is preferably to be made of a silicone elastomer. Although no method for making such a fixation means is disclosed, it is believed that it would be separately molded. Therefore, the pattern of perforations and ribs would have to be such as to allow removal from a mold. The fixation means must then be attached to the prosthesis.

Ion-beam thruster technology has also been suggested as a way to microtexture breast prostheses (Picha and Siedlak, Ion-Beam Microtexturing of Biomaterials, MD & DI at 39 (April 1984)). However, this would interject an expensive processing step into the manufacture of breast prostheses. Also, it is not clear how the prostheses will be manipulated to achieve microtexturing over the entirety of their contoured surfaces or how effective the regular pattern of a microtextured surface will be at preventing capsular contracture. Other attempts to create an open-celled texture integral to the prosthesis shell through incorporating foaming or blowing agents in the silicone elastomer have not been successful because the surface properties of the silicone elastomers prevent the bubbles formed from connecting to one another or opening at the surface.

Accordingly, a need exists for a silicone elastomer medical implant having an external surface with an open-celled texture. Additionally, a need exists for an efficient and economic method for making such a medical implant.

SUMMARY OF THE INVENTION

In the most general terms, the present invention is directed to a member comprised of silicone elastomer and having an outer layer, at least a portion of which has an open-cell structure at the surface. A method for providing an open-cell structure to a surface of a layer of silicone elastomer is also taught. This method comprises the steps of: applying solid particles to the surface before the layer is fully cured; fully curing the layer; and dissolving the solid particles with a solvent that does not dissolve the silicone elastomer to any appreciable extent. Preferably, the solid particles have a diameter ranging from about 10 microns to about 600 microns so that the resulting cells in the open-cell structure have diameters in this same range. It is also preferable, for the solid particles to be applied so as to achieve a depth within the layer ranging from a portion of one particle diameter to a multiple of many particle diameters so that the resulting interconnected cells extend down from the surface to a depth in this same range. Most preferred is a range from about one to about three times the diameter of the solid particles.

More specifically, the present invention is directed to a medical implant with an external surface layer of silicone elastomer, at least a portion of which has an open-cell structure. Such an implant can be made through a method substantially the same as the three-step method set forth

above. Preferably, the solid particles are applied to most of the external surface layer so that most of the external surface has an open-cell structure. The solid particles can also be applied in a number of ways: by sprinkling them over the external surface layer while manipulating the medical implant; by spraying them onto the external surface layer; or by dipping the medical implant into a body of the solid particles.

Even more specifically, the present invention is directed to an improved silicone-elastomer shell for a mammary prostheses, the improvement comprising: at least a portion of the external surface of the mammary prostheses having an open-cell structure. The improved method taught for making a silicone-elastomer shell for a mammary prosthesis is comprised of the steps of: dipping a supported mandrel into a silicone-elastomer dispersion to apply a final layer of silicone elastomer to a shell adhering to the mandrel; allowing the final layer to stabilize after the mandrel is removed from the dispersion; applying solid particles to the final layers volatilizing the solvent in the final layer; placing the mandrel and the shell with the final layer into an oven maintained at an elevated temperature for a period of time; dissolving the solid particles with a solvent that does not dissolve the silicone elastomer to any appreciable extent; and evaporating any excess solvent remaining on the shell.

BRIEF DESCRIPTION OF THE DRAWINGS

FIG. 1 is a side view of a mandrel used to form a mammary prosthesis according to the present invention;

FIG. 2 is a rear view of the mandrel of FIG. 1;

FIG. 3 is a sectioned side view of the shell of a mammary prosthesis according to the present invention;

FIG. 4 is a rear view of the shell of a mammary prosthesis of FIG. 3;

FIG. 5 is a magnified view of the external surface of the shell of a mammary prosthesis containing soluble solid particles;

FIG. 6 is a magnified view of the external surface of the shell of a mammary prosthesis showing the open-cell structure remaining after dissolution of the solid particles;

FIG. 7 is a magnified, sectioned side view of the external surface of the shell of a mammary prosthesis containing soluble solid particles; and

FIG. 8 is a magnified, sectioned side view of the external surface of the shell of a mammary prosthesis showing the open-cell structure remaining after dissolution of the solid particles.

DETAILED DESCRIPTION OF THE PREFERRED EMBODIMENT

The preferred embodiment of the present invention will primarily be described in the context of a mammary prosthesis because the present invention is expected to help solve the capsular contraction problem that is particularly troublesome in the implantation of mammary prostheses. However, the present invention should not be considered as limited to such a prosthesis. Instead, the teachings of the present invention should prove to be advantageous wherever capsular contraction can damage a medical implant or cause discomfort to the patient and/or wherever a medical implant is to be anchored through the ingrowth of fibrous tissue. The present invention should also prove advantageous in preventing or controlling scar formation during wound healing after many types of plastic surgery. In addition, the present invention should have general application within the field of

mammary prostheses, as it can be used with any of a wide variety of mammary prostheses.

With reference to FIG. 1, a mandrel 10 has an external configuration corresponding to that of the mammary prosthesis to be formed by it. A rear face 12 of the mandrel has a support member 14 embedded therein and extending outward therefrom. As shown in FIG. 2 the support member enters the mandrel at the center of rear face 12. Mandrels of this type are standard in the field. They are typically made of Delrin, aluminum, stainless steel or plastics, such as teflon/nylon combinations or high density polyethylene or polyester resin. The primary consideration is that the material be inert to the solvents and process heat used in the manufacturing process.

To begin the manufacture of a mammary prosthesis, the mandrel is dipped into a silicone rubber dispersion. Many such dispersions are used in the field. Basically they contain a silicone elastomer and a solvent. The silicone elastomer is typically polydimethylsiloxane, polydiphenyl-siloxane or some combination of these two. Typical solvents include xylene or trichloromethane. Different manufacturers vary the type and amount of the ingredients in the dispersion, the viscosity of the dispersion and the solid content of the dispersion. Nonetheless, the present invention is expected to be adaptable to have utility with a wide variety of silicone rubber dispersions.

The mandrel is lowered into the dispersion while being supported by support member 14 until the mandrel is completely submerged. The mandrel is then raised out of the dispersion with a thin coating of the material adhering thereto. The solvent in this thin coating is volatilized or caused to evaporate. Normally this is accomplished by flowing air over the coated mandrel at a controlled temperature and humidity. Different manufacturers use various quantities, velocities or directions of air flow and set the temperature and humidity of the air at different values. However, the desired result, driving off the solvent, remains the same. It is also common for prostheses manufacturers to repeat this dip and volatilize procedure a number of times so that a number of layers are built up on the mandrel to reach a desired shell thickness.

It is with the application of the final layer of silicone elastomer, that the present invention departs from the existing procedures for forming prostheses. After the mandrel is raised out of the dispersion with what is to be the final layer adhering thereto, this layer is allowed to stabilize. That is, it is held until the final coating no longer flows freely. This occurs as some of the solvent evaporates from the final coating, raising its viscosity. Once the layer has stabilized, granulated solid particles are applied evenly over the entire surface. Currently the solid particles are applied manually by sprinkling them over the surface while the mandrel is manipulated. However, it is envisioned that a machine operating like a bead blaster or sand blaster could be used to deliver a steady stream of solid particles at an adequate velocity to the coating on the mandrel. Alternatively, it is envisioned that adequate methods of solid particle application can be developed based on machines that pour the solid particles or based on dipping the coated mandrel into a body of the solid particles or exposing it to a suspension of the solid particles. It is to be understood that the present invention is not intended to be restricted to any one particular method of applying particles.

This final layer, with the solid particles embedded therein, is then allowed to volatilize. After volatilization, the entire silicone elastomer shell structure is vulcanized in an oven at

elevated temperatures. The temperature of the oven is preferably kept between about 200° F. and about 350° F. for a vulcanization time preferably between about 20 minutes and about 1 hour, 40 minutes. Upon removal from the oven, the mandrel/shell assembly is placed in a solvent for the solid particles and the solid particles allowed to dissolve. When the solid particles have dissolved, the assembly is removed from the solvent and the solvent evaporated. The shell can then be stripped from the mandrel. At this point, it is preferable to place the shell in a solvent for the solid particles and gently agitate it to ensure dissolution of all the solid particles. When the shell is removed from the solvent, the solvent is evaporated.

The process described above produces a shell 16 like that shown in FIGS. 3 and 4. The shell has a thin outer wall 18 made of silicone elastomer with an opening 20 therein at the point where support member 14 entered mandrel 12. In addition, the outer surface of the shell is covered with open cells 22 where solid particles 24 used to be before being dissolved. FIGS. 5 and 6 provide magnified

Views of the process whereby these open cells are formed in the surface of the shell. In FIG. 5, solid particles 24 are shown embedded across the surface of the shell. In FIG. 6, the solid particles have been dissolved, leaving behind open spaces in the surface of the shell. When applied, some of the solid particles are partially exposed so that they can be acted upon by the solvent. These exposed solid particles also provide a way for the solvent to reach those solid particles beneath the surface to dissolve them in turn. The result can be an interconnected structure of cells, some of which are open to the surface, in the outer layer of the shell.

With reference to FIGS. 7 and 8, a magnified side view is provided of the process whereby the open cells are formed in the surface of the shell. In FIG. 7, the solid particles are embedded to a depth of about 0.02 inch in a shell 16 having a thickness of about 0.042 inch. In FIG. 8, the solid particles have been dissolved away to leave behind the open cells.

The object of the solid particle application is to create the type of random, interconnected bubble structure discussed by Dr. R. E. Holmes' research study on tissue ingrowth found in Plastic and Reconstructive Surgery, Vol. 63, at 626-633 (1979). Therefore, the solid particles preferably have diameters ranging from about 10 to about 600 microns. The particles can be applied so as to achieve a depth ranging from a portion of one particle diameter to a multiple of many particle diameters. The particles are preferably embedded in the surface of the shell to a depth of from about one to about three times the diameter of the particles. Penetration of the solid particles depends upon the size of the particles, the thickness of the final uncured layer, the viscosity of the uncured layer and the force with which the particles are applied. These parameters can be controlled to achieve the desired depth of penetration. For example, if the last layer is relatively thick and low viscosity, less external force will be required on the solid particles to produce an acceptable foam depth.

In choosing a solid, several factors should be evaluated: (1) the solid should be economically available in the desired particle sizes; (2) the solid should be nontoxic in case some remains in the surface of the prosthesis; and (3) the solid should be readily soluble in a solvent that is economically available, nontoxic and does not dissolve the silicone elastomer. The presently preferred solid is crystalline sodium chloride which is readily available in granulated form. The presently preferred solvent is water, which readily dissolves sodium chloride and does not

dissolve silicone rubber. However, the person skilled in the art will understand that a number of solid and solvent pairs could be chosen that would more or less fulfill the above-stated requirements.

After finishing the shell according to the steps described above, the steps required to make a finished mammary prosthesis are again similar to those used by other manufacturers. First, opening 20 is patched with unvulcanized sheeting, usually made of silicone rubber. Then, if the prosthesis is to be filled with silicone gel, this gel is added and cured, the filled prosthesis packaged, and the packaged prosthesis sterilized. If the prosthesis is to be inflated with a saline solution, a one-way valve is assembled and installed, the prosthesis is post cured if required, and the prosthesis is then cleaned, packaged and sterilized. A combination mammary prosthesis can also be made wherein a gel-filled sac is positioned inside the shell to be surrounded by saline solution.

A method has been described for creating an outer layer having an open-cell structure in a silicone elastomer member. More specifically, the method can be applied to create a medical implant with an external surface layer of silicone elastomer having an open-cell structure, to create strips having a textured surface for control of scar formation, or to improve a process for making mammary prostheses. The product made by this method has also been described and is expected to have great utility in preventing capsular contraction, in preventing or controlling scar formation, and in anchoring medical implants.

If capsular contraction does occur with a medical implant made according to the method of the present invention, the doctor is more likely to be able to remove the implant intact. The textured portion of the implant will not degrade so that the doctor can be sure that all of the implant is being removed.

Scar tissue formation in the healing of a wound or surgical incision is also a process involving the growth of fibrous tissue. A visible scar results from this healing process because the fibrous tissue is aligned in one direction. However, it is often aesthetically desirable to prevent scar formation, especially in certain types of plastic surgery. A member having an open-cell structure at the surface can be placed subcutaneously within a healing wound or incision to prevent the fibrous tissue from aligning and thereby prevent scar formation. Such a member can be advantageously made according to the present invention.

It is often important to anchor medical implants against movement. Mammary prostheses are one example of implants that must be anchored. Facial implants are another example of implants that must be anchored. With facial implants it is particularly important that they be anchored securely against movement because of their prominent location. Providing such implants with an open-cell texture according to the present invention is a particularly advantageous way to ensure that they will be anchored securely.

What is claimed is:

1. An implantable mammary device comprising:

a substantially homogeneous silicone elastomer flexible shell of unitary construction defining an interior therein, the shell comprising at least a base layer of silicone elastomer and an outer layer of silicone elastomer, the base layer and outer layer being vulcanized together to form a unitary and homogeneous structure; and

means for filling the interior.

wherein the shell has defined unitarily therein a rough-textured external surface comprising randomly formed interconnected cells varying in diameter from about 10 microns to about 600 microns and located at and near the surface to a depth of about 1800 microns to simulate an open-cell foam for promoting ingrowth of tissue and for preventing capsular contracture.

2. An implantable mammary device according to claim 1, wherein most of the external surface is rough-textured.

3. An improved silicone elastomer shell for a mammary prosthesis, the improvement comprising:

a substantially homogeneous silicone elastomer flexible shell of unitary construction defining an interior therein, the shell comprising at least a base layer of silicone elastomer and an outer layer of silicone elastomer, the base layer and outer layer being vulcanized together to form a unitary homogeneous structure, wherein the shell has defined unitarily therein a rough-textured external surface comprising randomly-formed interconnected cells varying in diameter from about 10 microns to about 600 microns and located at and near the surface to a depth of about 1800 microns to simulate an open-cell foam for promoting ingrowth of tissue and for preventing capsular contracture.

4. An improved silicone elastomer shell according to claim 3, wherein most of the external surface is rough-textured.

5. An implantable mammary device comprising:

a substantially homogeneous silicone elastomer shell of unitary construction defining an interior therein; and means for filling the interior.

wherein the shell includes a base layer of substantially homogeneous silicone elastomer and an outer layer, the base layer and outer layer being vulcanized together to form a unitary homogeneous structure, the shell having an external surface and comprising a substantially homogeneous silicone elastomer, and having defined internally therein a first group of cells varying in diameter from about 10 microns to about 600 microns formed therein and a second group of cells varying in diameter from about 10 microns to about 600 microns formed therein relative to the first group, the first group being in direct communication with the external surface and having a range of depths down to about 600 microns below the external surface, and the second group having a range of depths down to about 1800 microns below the external surface, wherein the first and second groups of cells are disposed for creating an open-cell structure, wherein the first group of cells open directly to the external surface, and the second group of cells communicate with the external surface only through cells which open directly to the external surface to simulate an open-cell foam for promoting ingrowth of tissue and for preventing capsular contracture.

6. An improved silicone elastomer shell for a mammary prosthesis, the improvement comprising a shell formed of at least a base layer of silicone elastomer, and an outer layer of silicone elastomer, the base layer and outer layer being vulcanized together to form a unitary homogeneous

structure, the shell having an external surface with at least a portion of said external surface having defined unitarily therein an open-cell structure including a first group of cells varying in diameter from about 10 microns to about 600 microns formed therein and a second group of cells varying in diameter from about 10 microns to about 600 microns formed therein relative to the first group, the first group being in direct communication with the external surface and having a range of depths down to about 600 microns below the external surface, and the second group having a range of depths down to about 1800 microns below the external surface, the first and second groups of cells creating a network of cells to achieve the open-cell structure, wherein the first group of cells open directly to the external surface and the second group of cells communicate with the external surface only through cells which open directly to the external surface to simulate an open-cell foam for promoting tissue ingrowth and for preventing capsular contracture.

7. An improved silicone elastomer shell according to claim 6, wherein most of the external surface has the open-cell structure.

8. An implantable mammary device comprising:

a substantially homogeneous silicone elastomer flexible shell of unitary construction defining an interior therein, the shell comprising at least a base layer of silicone elastomer and an outer layer of silicone elastomer, the base layer and outer layer being vulcanized together to form a unitary and homogeneous structure; and

a filling for the interior, wherein the shell has defined unitarily therein a rough-textured external surface comprising randomly formed interconnected cells varying in diameter and located at and near the surface to simulate an open-cell foam for promoting ingrowth of tissue.

9. An implantable mammary device comprising:

1 a substantially homogeneous
silicone elastomer flexible shell
of unitary construction defining
an interior therein, the shell
5 comprising at least a base layer
of silicone elastomer and an outer
layer of silicone elastomer, the
base layer and outer layer being
vulcanized together to form a
10 unitary and homogeneous structure;
and

means for filling the
interior,

wherein the shell has
15 defined unitarily therein a rough-
textured external surface
comprising randomly formed
interconnected cells varying in
diameter and located at and near
20 the surface to simulate an open-
cell foam for promoting ingrowth
of tissue.

10. An implantable mammary
device according to claim 9,
25 wherein most of the external
surface is rough-textured.

11. An implantable mammary
device according to claim 9,
wherein the interconnected cells
30 vary in diameter from about 10
microns to about 600 microns.

12. An implantable mammary
device according to claim 9,
wherein the interconnected cells
35 are located at and near the

1 surface to a depth of about 1800
microns.

13. An improved silicone
elastomer shell for a mammary
5 prosthesis, the improvement
comprising:

a substantially homogeneous
silicone elastomer flexible shell
of unitary construction defining
10 an interior therein, the shell
comprising at least a base layer
of silicone elastomer and an outer
layer of silicone elastomer, the
base layer and outer layer being
15 vulcanized together to form a
unitary homogeneous structure,
wherein the shell has defined
unitarily therein a rough-textured
external surface comprising
20 randomly-formed interconnected
cells varying in diameter and
located at and near the surface to
simulate an open-cell foam for
promoting ingrowth of tissue.

14. An improved silicone
elastomer shell according to claim
13, wherein most of the external
surface is rough-textured.

15. An improved silicone
30 elastomer shell according to claim
13, wherein the interconnected
cells vary in diameter from about
10 microns to about 600 microns.

16. An improved silicone
35 elastomer shell according to claim

1 13, wherein the interconnected
cells are located at and near the
surface to a depth of about 1800
microns.

5 17. An implantable mammary
device comprising:

a substantially homogeneous
silicone elastomer shell of
unitary construction defining an
10 interior therein; and means for
filling the interior,

wherein the shell includes a
base layer of substantially
homogeneous silicone elastomer and
15 an outer layer, the base layer and
outer layer being vulcanized
together to form a unitary
homogeneous structure, the shell
having an external surface and
20 comprising a substantially
homogeneous silicone elastomer,
and having defined internally
therein a first group of cells
varying in diameter formed therein
25 and a second group of cells
varying in diameter formed therein
relative to the first group, the
first group being in direct
communication with the external
30 surface, wherein the first and
second groups of cells are
disposed for creating an open-cell
structure, wherein the first group
of cells open directly to the
35 external surface, and the second

1 group of cells communicate with
the external surface only through
cells which open directly to the
external surface to simulate an
5 open-cell foam for promoting
ingrowth of tissue.

18. An implantable mammary
device according to claim 17,
wherein the first and second
10 groups of cells have a diameter
ranging from about 10 microns to
about 600 microns.

19. An implantable mammary
device according to claim 17,
15 wherein the first group of cells
have a range of depths down to
about 600 microns.

20. An implantable mammary
device according to claim 19,
20 wherein the second group of cells
have a range of depths down to a
depth of about 1800 microns.

21. An improved silicone
elastomer shell for a mammary
25 prosthesis, the improvement
comprising a shell formed of at
least a base layer of silicone
elastomer, and an outer layer of
silicone elastomer, the base layer
30 and outer layer being vulcanized
together to form a unitary
homogeneous structure, the shell
having an external surface with at
least a portion of said external
35 surface having defined unitarily

1 therein an open-cell structure
 including a first group of cells
 varying in diameter formed therein
 and a second group of cells
5 varying in diameter formed therein
 relative to the first group, the
 first group being in direct
 communication with the external
 surface, the first and second
10 groups of cells creating a network
 of cells to achieve the open-cell
 structure, wherein the first group
 of cells open directly to the
 external surface and the second
15 group of cells communicate with
 the external surface only through
 cells which open directly to the
 external surface to simulate an
 open-cell foam for promoting
20 tissue ingrowth.

22. An improved silicone
 elastomer shell according to claim
 21, wherein most of the external
 surface has open-cell structure.

25 23. An improved silicone
 elastomer shell according to claim
 21, wherein the first and second
 groups of cells have a diameter
 ranging from about 10 to about 600
30 microns.

24. An improved silicone
 elastomer shell according to Claim
 21, wherein the first group of
 cells have a range of depths down
35

1 to about 600 microns below the
external surface.

25. An improved silicone
elastomer shell according to Claim
5 24, wherein the second group of
cells have a range of depths down
to about 1800 microns below the
external surface.

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Fig. 1

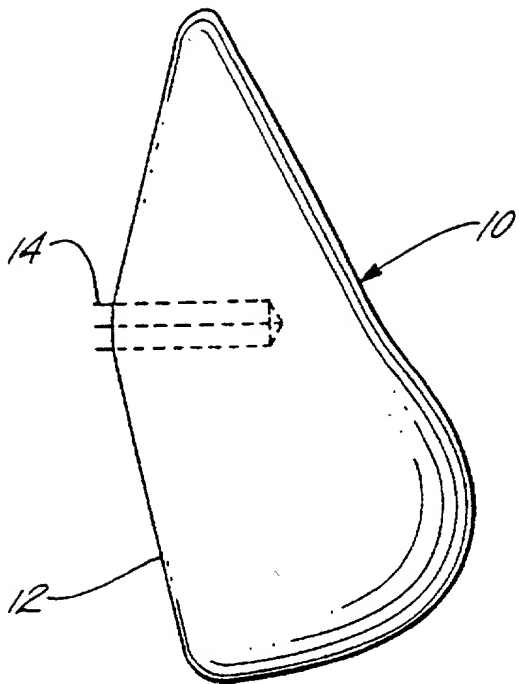


Fig. 2

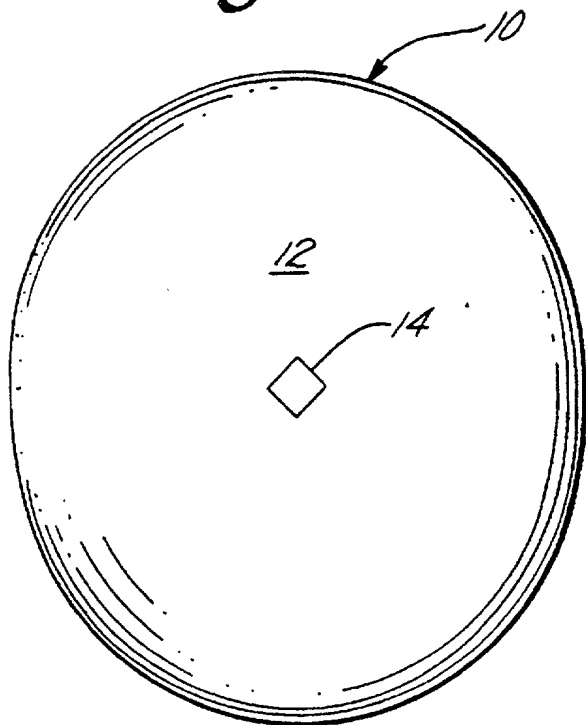


Fig. 3

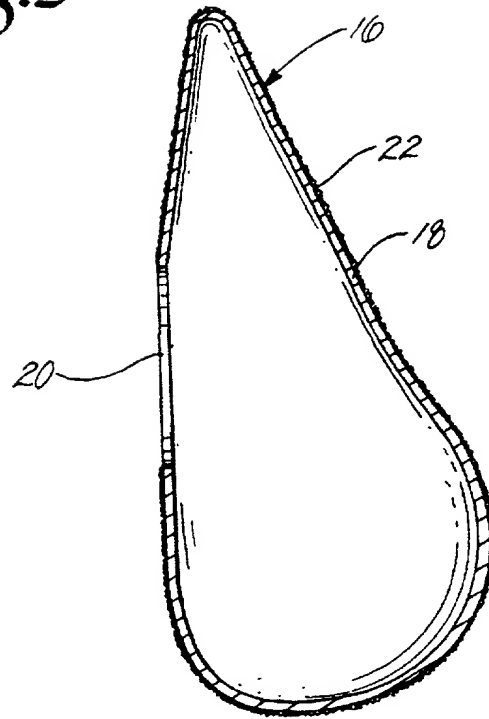


Fig. 4

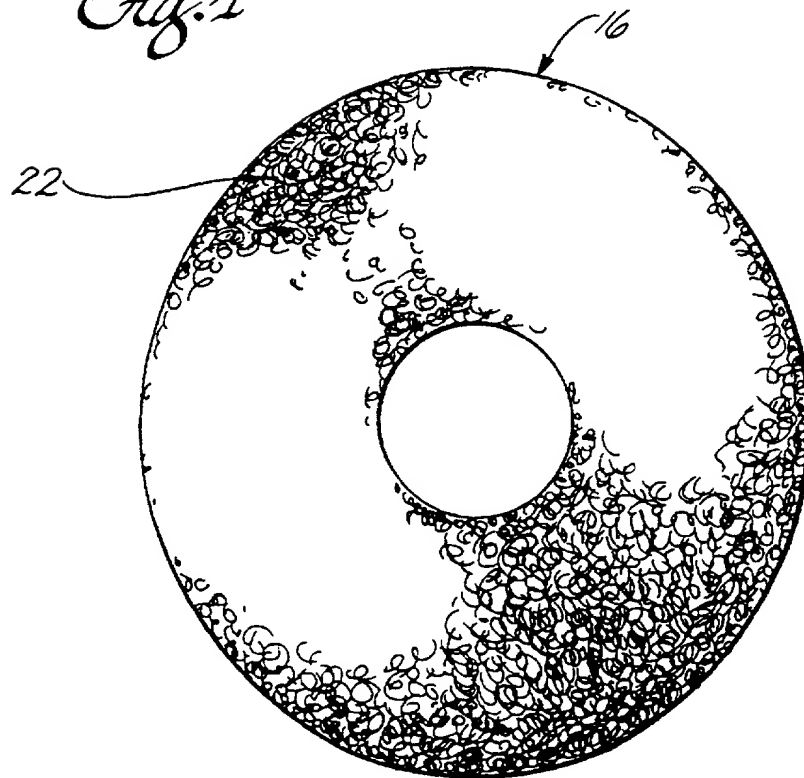


Fig. 5

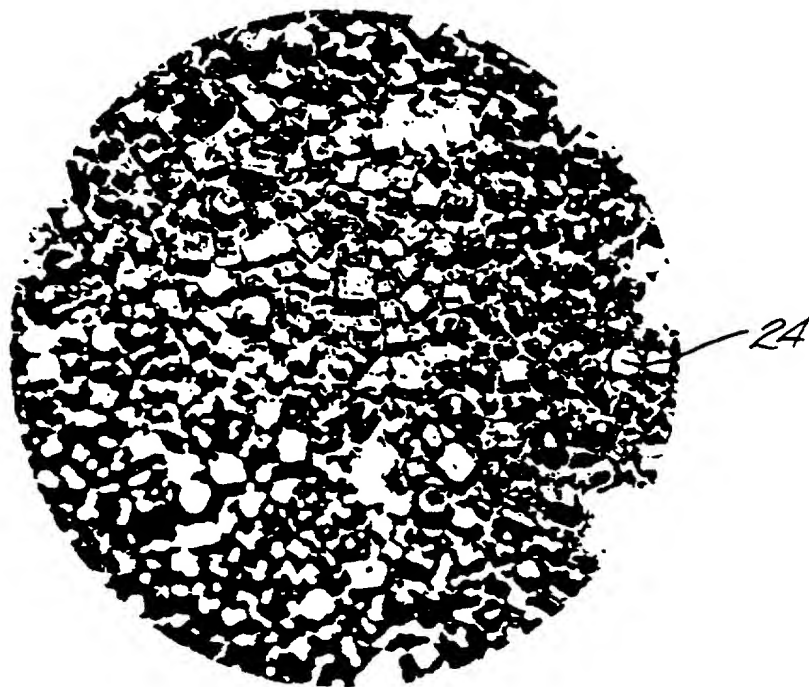


Fig. 6

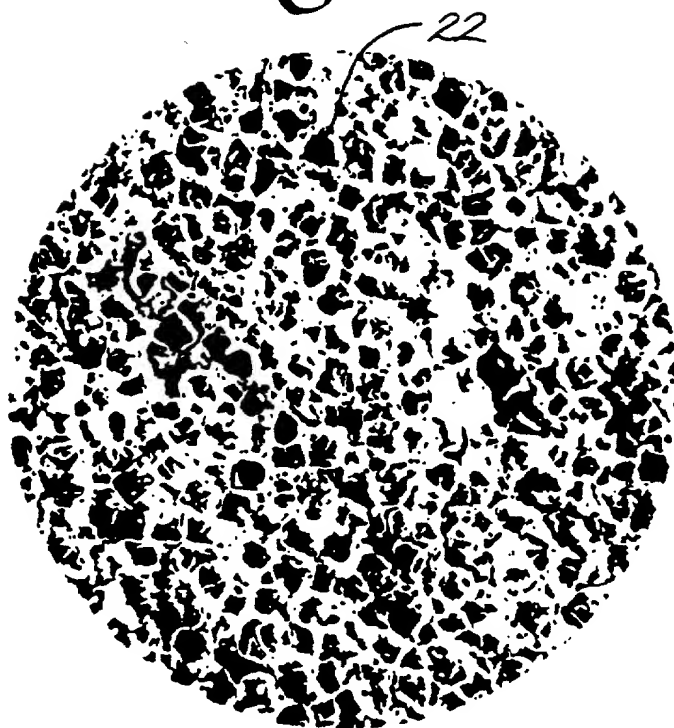


Fig. 7

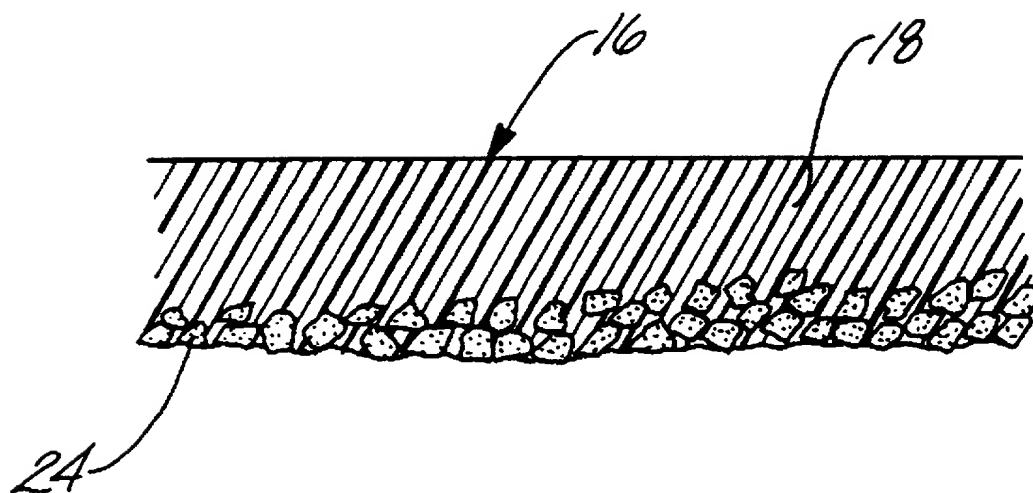
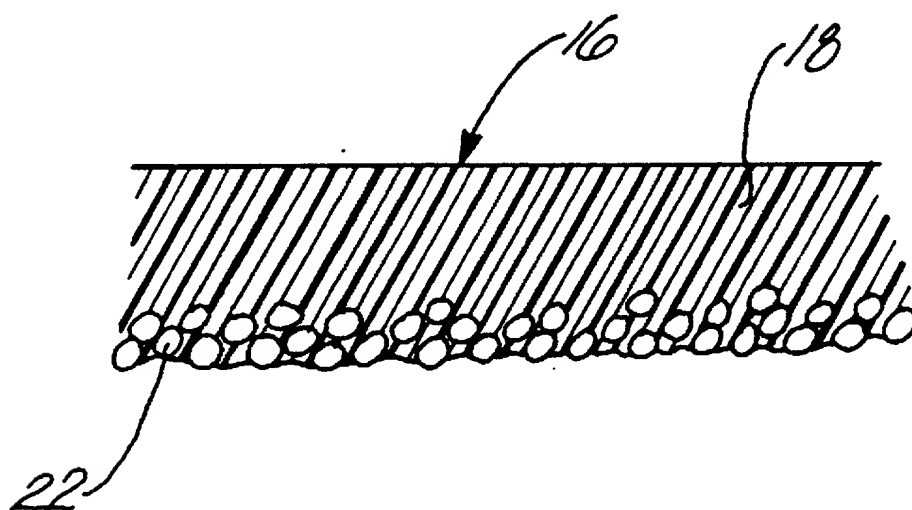


Fig. 8



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

For : Reissue of U.S. Patent No. 5,674,285
 Patentee : Joel Quaid
 Patent No. : 5,674,285
 Issued : October 7, 1997
 Title : MAMMARY IMPLANT HAVING SHELL WITH UNITARY
 ROUGH-TEXTURED OUTER LAYER
 Docket No. : 35871/MAK/M478

DECLARATION UNDER 37 C.F.R. 1.175 FOR REISSUE PATENT APPLICATION

Post Office Box 7068
 Pasadena, CA 91109-7068
 October 5, 1999

Assistant Commissioner for Patents
 Washington, D.C. 20231

Commissioner:

I, Joel Quaid, hereby declare that I am a citizen of the United States of America and reside at 350 Woodley Drive, Santa Barbara, California 93108. I believe I am the original, first, and sole inventor of the subject matter described and claimed in Patent No. 5,674,285, granted October 7, 1997, for which a reissue patent is sought on the invention entitled MAMMARY IMPLANT HAVING SHELL WITH UNITARY ROUGH-TEXTURED OUTER LAYER, the specification of which is attached hereto. The application for patent was filed on December 12, 1995 as application Serial No. 08/570,802.

I hereby state that I have reviewed and understand the contents of the above-identified specification, including the claims, in both the original patent and the application for reissue.

I acknowledge the duty to disclose information known to me to be material to the examination of this application, in accordance with Title 37, Code of Federal Regulations, section 1.56(a).

Reissue of U.S. Patent No. 5,674,285

I believe the above-referenced original patent to be partially inoperative by reason that the claims of the original patent were erroneously and inadvertently narrowed during prosecution beyond what was needed to distinguish over the cited prior art. This inadvertence caused the issued claims to be narrower in scope than what I had a right to claim.

Specifically, claims 1, 3, 5 and 6, the four independent claims that issued in the original patent are directed to an implantable mammary device having a substantially homogeneous silicone elastomer flexible shell of unitary construction comprising a group of "cells varying in diameter from about 10 microns to about 600 microns." In claims 1 and 3 the interconnected cells are "located at and near the surface to a depth of about 1800 microns." In claims 5 and 6, a first group of cells is in direct communication with the external surface and have a range of depths down to about 600 microns below the external surface and a second group of cells have a range of depths down to about 1800 microns.

These claims fail to fully define my invention because the diameter and range of depths of the cells is unduly limiting, whereas broader aspects of the invention may be practiced in the claimed combination. All that is required is that the cells be part of a unitary and homogeneous silicone elastomer flexible shell.

All errors which are being corrected in the present reissue application up to the time of filing of this declaration arose without any deceptive intention my part.

I declare further that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under

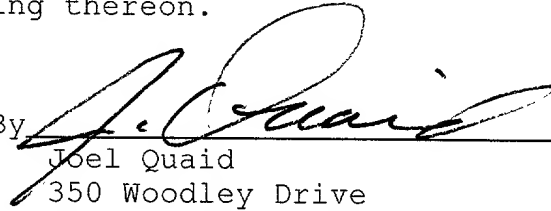
Reissue of U.S. Patent No. 5,674,285

Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issuing thereon.

Date:

10/5/99

By



Joel Quaid

350 Woodley Drive

Santa Barbara, California 93108

Citizenship: U.S.A.

MAK/vfg

VFG PAS210482.1-*--10/5/99 9:16 AM